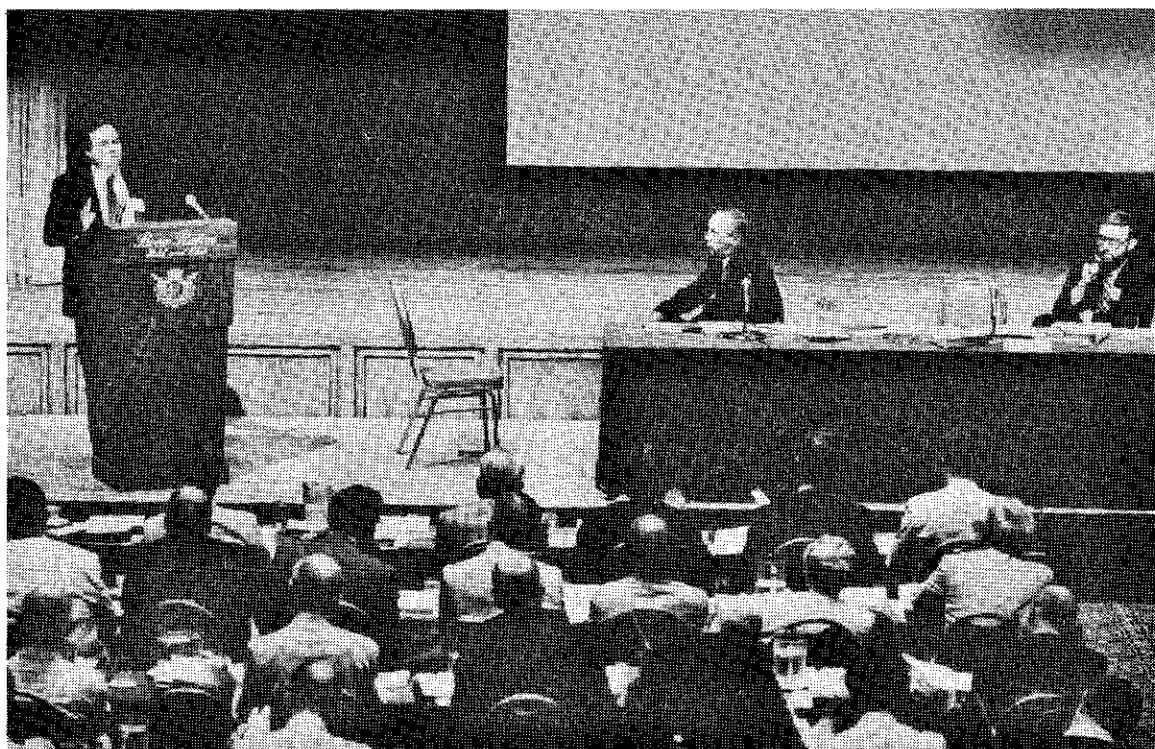


# COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

Volume 5/Number 10

October, 1981



ALABAMA OFFICIALS PRESENT PROGRAM TO STATE CHIEF JUSTICES, COURT ADMINISTRATORS--Alabama Chief Justice C.C. Torbert Jr. (center), Administrative Director of Courts Allen L. Tapley (at lecturn) and Robert A. Martin, director of Administrative Services Division (right) are pictured during their presentation "Communications: The Role of the Courts," at a joint session of the Conference of Chief Justices and Conference of State Court Administrators at Boca Raton, Florida in August. Some 150 state and national judicial leaders attended the two-hour presentation.

## A TOUCH OF JUDICIAL HISTORY...

It was 10 years ago that Senate Bill 23, sponsored by Sen. Bob Harris of Decatur, became law. Signed into law at 3:15 p.m. on September 20, 1971, Senate Bill 23, which became Act No. 1594 of the 1971 Regular Ses-

sion of the Alabama Legislature, created the Department of Court Management. Created to assist the chief justice in carrying out his administrative responsibilities, the department was merged into the Administrative Office of Courts in 1977.

## PILOT COMPUTERIZATION PROJECT FOR TRIAL COURTS BEGINS WITH MADISON AND MONTGOMERY COURTS

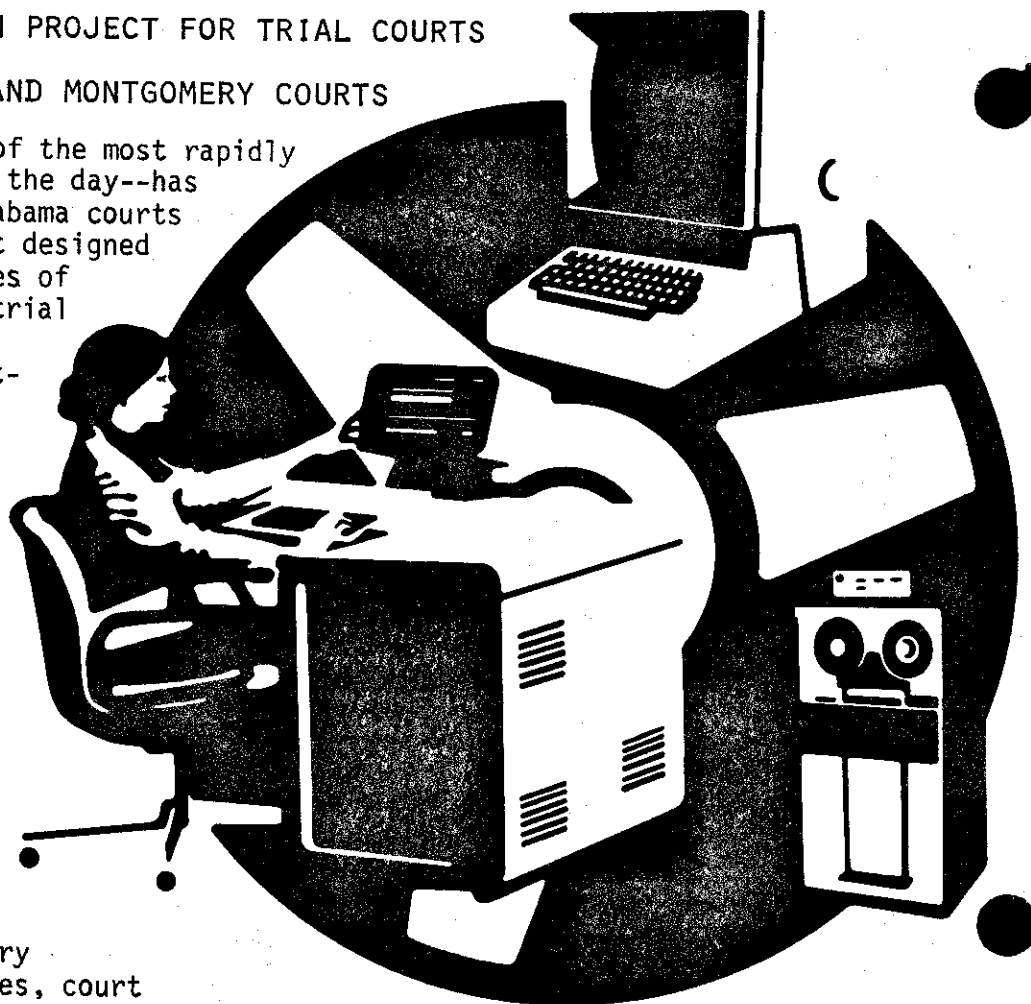
Computer science--one of the most rapidly advancing technologies of the day--has found its way into the Alabama courts in an experimental project designed to assess the possible uses of computers in the state's trial courts.

Madison County and Montgomery County Circuit Courts have been chosen as initial sites for pilot computerization. IBM Series/1 computers have been selected as best meeting the needs and requirements of the trial courts and installation of the hardware is expected to begin during this fiscal year.

The pilot project is part of the LEAA-sponsored Court Delay Reduction Program and began with the appointment of a Judicial Information Systems Advisory Committee composed of judges, court clerks, court administrators and Administrative Office of Courts staff. Meeting in late summer, the committee compiled a listing of specifications reflecting a cross-section of needs and possible applications for the computers. Working from these specifications, the AOC Information Systems Division, under the direction of Information Officer Jan Shultz, began creation of a program which would support the committee's recommendations.

According to Shultz, the realm of possible applications for computer science in the trial courts may only be realized through actual experimentation. At the present, however, the applicable uses are focused on court case calendaring, indexing and transmittal of AOC reports. While each Series/1 computer site will be fully self-contained and independent, it has the ability to link with the IBM computer at AOC for enhanced processing functions.

Computerization of the trial courts will offer a faster, more cost-effective means of managing cases and their inherent paperwork. Anticipated benefits of



the system will include comprehensive listings of individual caseloads as well as classification of cases by status or category. These products will provide the information necessary for solid judicial management decisions, noted Frank Gregory, director of AOC's State Court Operations Division. Automated searches of the index for defendants and their prior cases and the ability to instantly recall the status and essential information of each case filed in the court will release many hours of judicial and clerical time.

Members of the advisory committee are: Chairman Billy Harbin, Madison County circuit clerk; Presiding Circuit Judges Joseph Hocklander, 13th Circuit, and Jerry White, 20th Circuit; Circuit Judge William Gordon, 15th Circuit; District Judge Dominick Matranga, Mobile County; Circuit Clerk Julia Trant, Houston County; District Clerk Elizabeth Hamner, Tuscaloosa County; Register Elsworth Houghton, Mobile County; Court Administrators Glen Singleton (23rd), Bob Merrill (15th); and Gregory.

## JUDGES OF THE CITY OF MONTGOMERY 1900-1980



**A. D. BAYNE**  
Judge of the City Court of Montgomery 1900-1909. A Member of the Supreme Court of Alabama from 1909 until his death in 1930.



**WILLIAM H. THOMAS**  
Judge of the City Court of Montgomery 1909-1911. Also served as Judge of the Supreme Court of Alabama 1915 until his death.



**AMESTEAR BROWN**  
Judge of the City Court of Montgomery from 1909-1915. After retirement, was General Counsel for Florida East Coast Railroad and later a member of the Supreme Court of Florida, and at one time Chief Justice.



**GASTON QUINTER**  
Judge of the City Court of Montgomery and later Circuit Judge when the two Courts... City Court and Circuit Court were combined from 1911 to the date of his death in 1919. Prior to his election to Judge of the City Court was Mayor of Montgomery from 1906-1910.



**C. P. SWINT**  
Judge of the City Court of Montgomery, for a part of 1915.



**WILLIAM R. BRASSELL**  
Recorder of the Recorder's Court, City of Montgomery, 1919-1922. City of Montgomery adopted Act #14, Regular Session of the Alabama Legislature, 1919 under which Recorder's Court came into being on the first Monday of October, 1919.



**EDWARD T. GRAHAM**  
Recorder of the Recorder's Court, City of Montgomery, 1922-1927.



**ALBERT J. PICKETT, JR.**  
Recorder of the Recorder's Court, City of Montgomery, 1927-1935.



**JOHN B. SCOTT**  
Recorder of the Recorder's Court, City of Montgomery, 1935-1943. 1946-1956. After retirement became Executive Secretary, Alabama State Bar, and later, Reporter of Decisions, Supreme Court of Alabama.



**D. EUGENE LOE**  
Recorder and Assistant Recorder of the Recorder's Court, City of Montgomery, 1935-1943. Recorder 1943-1946, 1950-1966. Presiding Judge, Municipal Court of the City of Montgomery, 1966-1972. On August 18, 1966 under Act 27, Special Session of the Alabama Legislature, 1966, the recorder's Court became the Municipal Court, City of Montgomery.



**LUTHER H. WALLER**  
Assistant Recorder, City of Montgomery, 1944-1961.



**BEN HARDEMAN**  
Assistant Recorder, City of Montgomery, 1961-1962. Served as United States Attorney for the Middle District of Alabama, 1962-1968.



**BISHOP H. BARRON**  
Assistant Recorder and Assistant Municipal Court Judge, City of Montgomery, 1960-1969. Served in Alabama House of Representatives 1973-1978. Alabama Senate 1978 to present.



**RICHARD B. JORDAN**  
Assistant Municipal Court Judge, City of Montgomery, 1969-1971.



**JAMES H. EVANS**  
Assistant Municipal Court Judge, City of Montgomery, 1971-1972. Presiding Judge, Municipal Court, City of Montgomery, 1975.



**CURTIS H. SPROWDER**  
Assistant Municipal Court Judge, City of Montgomery, 1972-1980. Presiding Judge, Municipal Court, City of Montgomery, 1980 to date. Previously served in Alabama House of Representatives 1967-1971.



**MATTHIS W. PIEL**  
Presiding Judge, Municipal Court, City of Montgomery, 1973-1979.



**CHARLES PRICE**  
Assistant Municipal Court Judge, City of Montgomery, 1980 to date.



**RANDOLPH P. REEVES**  
Assistant Municipal Court Judge, City of Montgomery, 1980 to date.

Presented to the City of Montgomery

The Montgomery County Bar Association

September 7, 1981

Larry E. Kloess, Jr., President

Richard M. Jordan, Vice President

John R. Sade, Secretary-Treasurer

C. Ross Wilson, Jr., Esq., Young Lawyers Section

*PHOTO COMPOSITE PRESENTED TO CITY OF MONTGOMERY--This composite of Montgomery city judges, dating back to 1900, was presented in large scale, to the city of Montgomery by the Montgomery County Bar Association recently to be hung in the city courtroom.*

### PHOTO COMPOSITE GIVEN TO CITY BY MONTGOMERY COUNTY BAR ASSOCIATION

The Montgomery County Bar Association recently presented the city of Montgomery a large-scale replica of the composite above, identifying all the city judges who have served during this century. The composite hangs at the municipal court building.

Bar Association President Larry Kloess, who presented the historical photo to Mayor Emory Folmar, noted several interesting facts discovered during the research to compile the photograph. In 1866, the Ala-

bama Legislature created city courts in Montgomery, Mobile, Selma and Huntsville, calling them "Criminal Courts." At this time, the city courts had very much the same jurisdiction, both original and appellate, as today's circuit courts.

From 1900 to 1919, the court was called the "City Court of Montgomery." The court was called "Recorder's Court of the City of Montgomery" from 1919 until 1966 when the name was changed to "Montgomery Municipal Court."

From 1911 until 1919, the City Court of Montgomery and the circuit court were combined--one judge serving both courts. In

*(Continued On Page 4)*

## PHOTO COMPOSITE GIVEN TO CITY BY MONTGOMERY COUNTY BAR ASSOCIATION

*(Continued From Page 3)*

1923, all recorder courts were given concurrent jurisdiction with county courts (today's district courts). Later, recorder courts had narrower jurisdictions, handling only municipal and traffic cases until the jurisdictions were again broadened to include misdemeanors and preliminary hearings for binding over in felony cases.

Two of the former city judges, A.D. Sayre and William H. Thomas, became justices on the Alabama Supreme Court. Former City Judge Armistead Brown later became chief justice of the Florida Supreme Court. Two of Thomas' relatives are now judges: his grandson, U.S. District Judge Robert E. Varner; and his great-grandnephew, Montgomery Circuit Judge Randall C. Thomas. Sayre's granddaughter is Mrs. Frances F. "Scottie" Smith of Montgomery, daughter of Author F. Scott Fitzgerald and his wife, Zelda.

Former Assistant Municipal Judge Bishop Barron now serves in the Alabama Senate and former Assistant Judge James H. Evans now serves as district attorney for the 15th Judicial Circuit.

Former Recorder John B. Scott later became executive secretary for the Alabama State Bar and also served as reporter of decisions for the state Supreme Court.

Montgomery Bar President Kloess said he plans to propose a similar project to the bar, this time tracing the circuit judges who have served Montgomery County and the 15th Judicial Circuit.

## ALABAMA NOW MEMBER OF NON-RESIDENT VIOLATOR COMPACT FOR MOTORISTS

On Oct. 1, Alabama became a member of the Non-Resident Violator Compact. The Compact assures non-resident motorists receiving citations for minor traffic infractions in a party state the same treatment afforded to resident motorists. A procedure is established whereby a non-resident receiving a traffic citation in a party state must satisfy the terms of that citation or face the possibility of

license suspension in his home state until the terms of the citation are met.

Since 1974, the Driver License Division of the Department of Public Safety has suspended the license of Alabama drivers when notified by a court of a driver's failure to appear to answer a traffic summons. The division also requested the suspension of license for a non-resident if he failed to appear as directed. In the absence of a formal suspension agreement with other states, many out-of-state motorists never cleared the Alabama citation.

The failure to appear program under the compact will have only minor changes from present procedure. Under the compact guidelines, DPS cannot accept failure to appear notices on traffic cases more than six months old. The notice cannot be used as a device for collecting unpaid portions of fines allowed to be paid in installments or to secure a court appearance if one has previously presented himself to the court and trial has been postponed to a later date.

Other states participating in the compact include: Connecticut, Delaware, District of Columbia, Florida, Georgia, Indiana, Iowa, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, South Carolina, South Dakota, Virginia and West Virginia. Maine, New Hampshire and Texas will join the compact Jan. 1, 1982.

An officer issuing a traffic citation to a resident of one of these states can be assured that the violator's home state will suspend his license if the Alabama case is not settled and a failure to appear notice is sent to DPS. Alabama courts will continue to notify the Driver License Division of failure to appear for both residents and non-residents and clearances for traffic cases will be processed as in the past.

DPS has also announced that beginning Oct. 1 of this year, it resumed mailing renewal notices for expiring driver licenses. The notices will be mailed to the licensee's last known address at least 30 days prior to expiration.

Further details on the compact and failure to appear program may be obtained from the DPS Driver License Division.

## DEKALB COUNTY

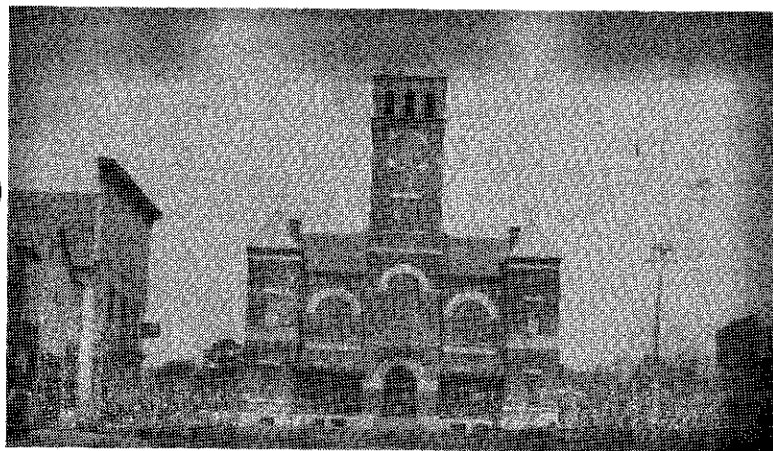
### FOUR COURTHOUSES, SEVEN COUNTY

### SEATS SERVE COUNTY SINCE 1836

On January 9, 1836, just 11 days after the signing of the Treaty of New Echota, DeKalb County was created by the state legislature and was one of three counties carved from the Cherokee cession of 1835.

Most of the early white settlers to the area were from South Carolina and they gave the county its name in honor of Maj. General Baron DeKalb who was killed in South Carolina during the Revolutionary War.

Local elections were held for the purpose of filling offices for the newly-created counties. The first officials for DeKalb County were: Robert Hooks, judge

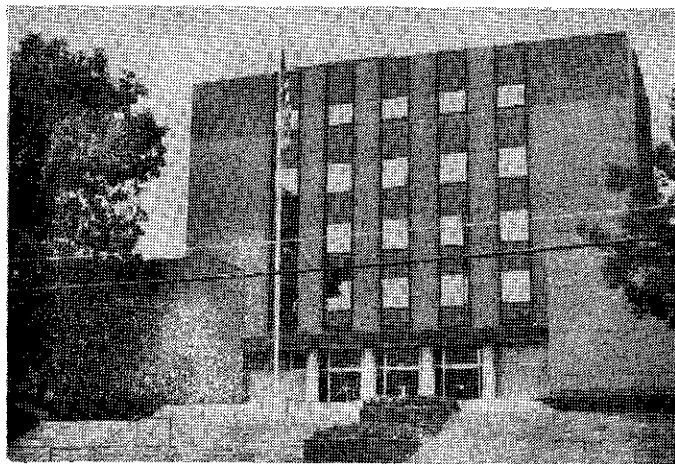


*SECOND FORT PAYNE COURTHOUSE BUILT IN 1890...  
during coal boom period*

of county court (Jan. 12, 1836); Robert Murphy, sheriff (March 24, 1836); John Cunningham, clerk of county court (March 24, 1836); Benjamin F. Green, justice of the peace (May 25, 1836); and A.H. Lamar, constable (May 25, 1836).

The first of seven county seats was at Rawlingsville, a community near what is now the northern section of Fort Payne. After a special election, it was moved to Bootsville in Sand Valley. Then in succession, it was moved to Camden, Lebanon and Portersville.

After five changes in four years, it was agreed to again locate the county seat at Lebanon on the condition that a courthouse and jail be erected there. A two-story brick building was constructed



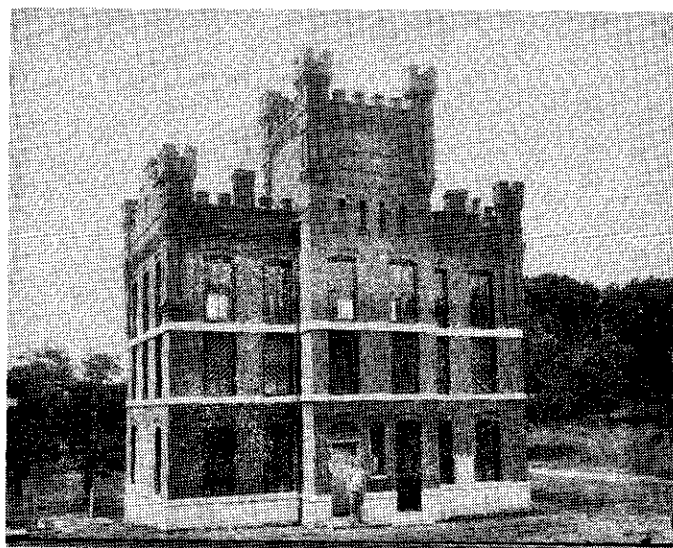
*DEKALB COUNTY COURTHOUSE AS IT IS TODAY...  
built in 1950, it was renovated in 1974  
and again in 1977*

in 1842 on land donated by the Frazier and Dobbs families to serve as the first permanent county courthouse. This building was purchased by Mrs. Evelyn Stafford Shannon, a descendant of the Fraziers, in 1960 and remodeled into an attractive home still in use today.

Lebanon was the center of activity during most of the 38 years it served as the county seat. A post office and a government land office were located there and the county's first newspaper was published there in 1867 by P.J. Smith.

After the Civil War, the railroad played an increasingly significant part in developing the resources of the county. Because most people be-

*(Continued On Page 10)*



*JAILER STANDS IN FRONT OF 1890 JAILHOUSE  
...built in Fort Payne during coal boom*



## NEWS FROM THE JUDICIAL COLLEGE

### CLERKS AND REGISTERS TO EXAMINE ACCOUNTING PROCEDURES IN OCTOBER

As part of the long-range curriculum, the Alabama Judicial College has developed a two-session series on Accounting Procedures for Clerks and Registers Offices with the assistance of the Clerks and Registers Long-Range Curriculum Committee chaired by Butler County Circuit Clerk Bobby Branum. The first of these sessions will be held in Montgomery on Oct. 15 and 16 at the Holiday Inn State Capitol. Session II will be held in March of 1982 in Birmingham. Employees in clerks and registers offices who work with accounting functions have been invited to join in these meetings.

During Session I, an overview of accounting systems used in trial courts will be presented in three segments: Receipts and Cash Books by Betty Barbour, assistant clerk of Bessemer; Peg Board by Pat Miller, chief clerk in the Talladega County Register's Office; and Cash Register by Julia Trant, Houston County clerk.

The recent legislative session brought many changes in the financial operations of trial courts. These changes will be discussed by a panel consisting of Robert H. Tillman, director of Operations Division of the Administrative Office of Courts; Tom Barber, AOC assistant legal counsel; Morris Moatts, Chilton County clerk; and Patrick L. Robinson, assistant legal counsel of the Examiners of Public Accounts.

Bob Bradford and Cheryle Thomas of AOC will discuss the recent changes in transmittal sheets and fee distribution charts as well as the changes in juror and witness report forms. Techniques used in preparing transmittal sheets and disbursing funds will be presented by Janice Golden, bookkeeper in the Lee County Clerk and Register Office. Janice McClenon, court clerk of Mobile County, will present techniques in the monthly close of books.

One of the basic goals of the session is to provide opportunities for free and open discussion of problems encountered in trial court accounting. A discussion period is set aside in order for each par-

ticipant to bring up his or her concern. Serving as group leaders will be Billy Harbin, Madison County clerk; Sam Grice, Talladega County clerk; Bobby Branum, Butler County clerk; Gaynell Hall, Morgan County register; and Elizabeth Hamner, Tuscaloosa County District Court clerk.

Other topics included in the program of Session I are: "How to Get an 'A' on Your Audit" presented by Dent Richards of the Examiners of Public Accounts; Accounting for Partial Payments presented by Bill Kynard, Dallas County clerk, and Brad Strickland, Dallas County probation officer; and "How to Calculate Commissions in Judicial Sales" presented by Jim Ellis, Coffee County clerk. "Keeping up With Inventory and Purchasing" will be discussed by Eileen Harris, deputy clerk in Colbert County.

The final segment will deal with Internal Accounting Controls and will be presented by Devon and Carol Kiker, Russell County clerk and register, respectively.

Topics for Session II in Birmingham are Trust Accounts and the Legal Responsibilities of the Trustee; How to Account for Trust Funds; How Trust Funds are Audited; Discussion of Recent Legislation; Court Fees and Charges--An Overview of Authorities; Fees for Conservation Cases; How to Handle Money on Condemned or Confiscated Property; Bond Forfeitures; Post Judgment Motions; Juror and Witness Fees; Indigent Defense--How to Handle Collection of Costs; Group Discussion of Problems Encountered in the Collection of Court Costs and Fees.

### CIRCUIT AND DISTRICT JUDGES ATTEND FALL JUDICIAL SEMINARS AT COLLEGE

Alabama circuit and district judges were able to choose from a variety of subjects of special interest to them during the Fall Judicial Seminars held at the Judicial College in Tuscaloosa Sept. 8-10.

Approximately 21 topics were presented during the three days, four sessions conducted simultaneously, so that attendees could arrange course schedules according to their own interests and training needs.

Courses included Uniform Child Custody

*(Continued On Page 7)*

## MORE NEWS FROM THE JUDICIAL COLLEGE

### CIRCUIT AND DISTRICT JUDGES ATTEND FALL JUDICIAL SEMINARS AT COLLEGE

*(Continued From Page 6)*

Jurisdiction Act, Pros and Cons of Joint Custody, Contempt in Domestic Relations Cases, Recent Developments in Domestic Relations Law and its Effect on the Trial Courts, Development of Case Management Plans for Circuit Courts, Irving Younger Video Tapes on Evidence, Problems Under the Criminal Code--Defense and Prosecution, Supreme Court Update, Panel Discussion of the Criminal Code, Death Penalty Cases, Contracts, Torts, Civil Procedure, Use of Genetic Markers in Disputed Paternity Cases, Interstate Compacts, and Post-Dispositional Review of Juvenile Cases. Representatives of Westlaw Computerized Legal Research were on hand to demonstrate its capabilities.



# PEOPLE \* PEOPLE

**H**untsville attorney *Jerri Lynn Walker Blankenship* has been appointed to fill a vacant Madison County district judgeship by Gov. Fob James.

Mrs. Blankenship's appointment came after District Judge Lynwood Smith Jr. was appointed to a vacant circuit judgeship in the 23rd Judicial Circuit left by the retirement of Circuit Judge John W. Green Jr.

A former law partner in the firm of Stephens, Millirons, Harrison and Walker, the new district judge received her law degree in 1976 from the University of Alabama School of Law.

Her appointment was made on Sept. 18 and both she and Smith took the oaths of their new offices on Oct. 8.



**D**onald Gibson, Choctaw County circuit clerk, and his wife Mary Ruth are the proud parents of a new baby boy, James "Jamie" Tobia Gibson, born Sept. 14.

**D**eborah Oliver, secretary to Tallapoosa County District Judge John P. Oliver, and her husband Tyrone are parents of a baby boy, Jamal Rashad Oliver, born Sept. 22.

**B**utler County Circuit Clerk *Bobby T. Branum* was elected vice president of the National Association for Court Administration at the group's annual meeting Sept. 13-19 in San Diego held in conjunction with the First National Symposium on Court Management.

Branum has been circuit clerk since January of 1959 and since joining NACA in 1973, he has served on its board of directors and as chairman of the Chapter Development Committee. He is currently chairman of the 1982 Conference Committee for NACA which has planned its 1982 meeting in Mobile. This year, Branum received the President's Award for his efforts in recruiting new members to the association.

NACA was founded in 1969 and serves as an advocate for its members and as an instrument to promote efficient management techniques in the courts.

**O**n Oct. 18, Alabama Chief Justice *C.C. Torbert Jr.* will give the keynote address for the National Center for State Courts' Symposium on the Economics and Politics of Crime, Courts and Corrections ...Strategies for the 80s. Most recently, the chief justice addressed the judicial section of the State Bar of Texas in Corpus Christi and participated in the Southern Newspaper Publishers' Association's Seminar on State Courts in Williamsburg, Virginia.

**L**aurie Calvert is the newly-elected treasurer of the Alabama Shorthand Reporters Association. An incorrect name appeared in the August edition of *Court News*.

**A**labama Chief Justice *C.C. "Bo" Torbert Jr.* was recently re-elected to the board of directors of the American Judicature Society.

Founded in 1913, the society is a national organization of more than 30,000 lawyers, judges and concerned citizens working to improve the courts.

# PEOPLE \* PEOPLE



VIRGIL J. UPTAIN AND JANE SMITH

**A**fter 15 years with the court system and over 60 years in the work force, Madison County's *Virgil J. Uptain* has retired to "live a liesurely life, spend time with my wife, children and grandchildren, golf and fish, tinker in my workshop, garden, travel and do volunteer community work."

Mr. Uptain has worked with the Madison County Clerk's Office since 1966 and has most recently served, since 1977, as acting clerk of the Madison County District Court. *Jane Smith*, an employee in the circuit clerk's office, will assume Mr. Uptain's duties in the district court.

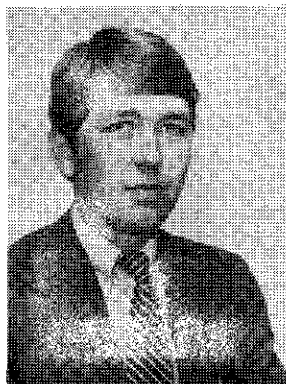
"Virgil Uptain was one of the finest clerks, if not the finest clerk, in the state of Alabama," noted Madison Circuit Clerk Billy Harbin, "mainly because of his many years' experience as an office manager and his firmness in dealing with his employees and with the public."

"Virgil made many contributions to the courts of the 23rd Judicial system and to the entire court system as well. His office was used as a model in developing the district courts as we know them today," Harbin continued. "Many of the forms that he personally designed continue to be used throughout the state."

Prior to his years with the Madison courts, Mr. Uptain spent 40 years with the post office as a clerk and assistant postmaster.

He is a member of numerous civic or-

ganizations in Huntsville including Civitan Club in which he held offices of secretary, treasurer, president and lieutenant governor of the north Alabama district. He is a member of Central Presbyterian Church and has served as ruling elder for more than 17 years.



GEORGE K. ELBRECHT

**G**eorge K. Elbrecht, former Monroeville municipal judge, has been appointed public defender for the 35th Judicial Circuit.

Elbrecht assumed his new duties in early October. He has been municipal judge in Monroeville since 1978.

Elbrecht has developed and implemented several procedures for court efficiency during his affiliation with the city court and said because of his keen interest in the court there, the decision to accept the public defender position was a difficult one.



*U.S. SENATOR AND FORMER ALABAMA CHIEF... Justice Howell Heflin greets newly appointed U.S. Supreme Court Justice Sandra Day O'Connor, the first woman to serve in the court's 190 year history.*

## DEKALB COUNTY

### FOUR COURTHOUSES, SEVEN COUNTY SEATS SERVE COUNTY SINCE 1836

*(Continued From Page 5)*

lieved that the county seat should be changed to a town served by the railroad, an election was held to choose between Fort Payne, Brandon (Collbran) and Collinsville. By a three-vote margin, Fort Payne was chosen as the new county seat in 1876.

Two legends give credit for the name Fort Payne. One is that it was named after a stockade built by a Captain Payne to hold the Cherokees after their removal from the area in 1838. The other is that an Indian trade center had been located in the area and the Indian agent operating the store was named Payne.

The first of three courthouses in Fort Payne was built and donated to the county by Dr. A.B. Green in 1876. The masonry work was done by John Napoleon Bonaparte Faulkner, assisted by an experienced bricklayer named Dilly Towers who made the bricks on the grounds and added rabbit hair to the ingredients. Some of these unusual bricks were purchased by the Oddfellows in 1891, when the second courthouse replaced the original, and can still be seen in the old Oddfellows Hall, located by the Black Office Building.

In 1888, a three-year boom period began for Fort Payne based on heavy New England financial investment in potential coal and iron production from the nearby area. Apart from Birmingham, Fort Payne's boom was probably the greatest example of that in the state's history.

An investment company was formed which purchased 32,000 acres of land. A landscaped city was laid out. New businesses, banks, schools, homes and churches were built. This explosive boom led to the city being nicknamed "Magic City." The boom eventually went bust, but in 1890, during the peak of the boom, the second permanent courthouse in Fort Payne was built. The architectural style was influenced by the New England culture that had settled on the city. Also of brick, this second structure was much more elaborate than the first, with a large central

clock tower.

This courthouse sat on the same site occupied by the earlier one, and dominated the landscape on First Street.

After 52 years of service, the courthouse built in 1890 was replaced by a new one in 1950. Built of structural concrete and consisting of four floors, the new and present courthouse is located two blocks from the site of the former one.

In 1974, the present courthouse was renovated. A fifth floor was added, and an additional courtroom was constructed by dividing the existing one into two parts. A public safety annex was also constructed to house the sheriff's office, jail and state troopers.

In 1977, the public safety annex was renovated to add quarters for the district judge and his courtroom.

## PEOPLE

**T**wo Alabama Judicial System employees were elected officers of the National Conference of Appellate Court Clerks at the groups 8th annual meeting in Jackson Hole, Wyoming in August.

*John H. Wilkerson*, clerk of the Court of Civil Appeals, was elected vice president and *Dorothy F. Norwood*, deputy clerk of the Alabama Supreme Court, continues as secretary-treasurer. Mrs. Norwood was elected last year to that position for a two-year term.

Others elected to the slate of officers for NCACC were Robert D. St. Vrain, clerk of the U.S. Court of Appeals, 8th District, St. Louis, as president; Luella Dunn, clerk of the North Dakota Supreme Court, as president-elect.

Newly-elected to the group's executive committee were Joline B. Williams, clerk of the Georgia Supreme Court; Clifford C. Porter, clerk of the Court of Appeals, 1st District, San Francisco; and Joseph W. Bellacosa, clerk of the New York Court of Appeals, Albany.

Workshops on court-media relations and court management techniques highlighted the annual meeting. The six-day conference featured panel discussions and presentations by business and judicial leaders as well as members of the press.

# CORRECTIONS MADE TO LOCAL COURT COSTS CHARTS IN CLERKS MANUALS \*\*\*\*\*

Below are corrections which should be made to the Local Court Costs charts, revised in September to update the Clerks and Registers Manual.

The first correction appears on Page 1-7 and deals with Jefferson County (Birmingham and Bessemer). The second correction appears on Page 1-9 and deals with Tuscaloosa County. The charts should be corrected to appear as they do below.

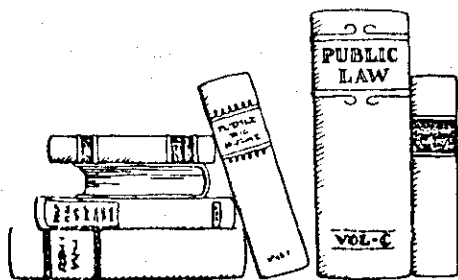
## Corrections to Page 1-7

Jefferson 10th	X	X	\$2.00*	-0-	-0-	-0-	\$2.00	Act 79-751, Acts of Alabama 1979, p. 1336*
	X		<del>\$2.00**</del> \$2.00	0	0	0	\$4.00	Act 79-751, Acts of Alabama 1979, p. 1336 Act 390, Acts of Alabama 1975, p. 972
Civ.			<del>\$2.00**</del> \$-20 (If amount claimed is \$100 or less)	0	0	0	\$2.20	Act 79-751, Acts of Alabama 1979, p. 1336* Act 390, Acts of Alabama 1975, p. 972
Civ.			<del>\$2.00**</del> \$-50 (If amount claimed is more than \$100)	0	0	0	\$2.50	Act 79-751, Acts of Alabama 1979, p. 1336* Act 390, Acts of Alabama 1975, p. 972
Crim.			<del>\$2.00**</del> \$-50	0	0	0	\$2.50	Act 79-751, Acts of Alabama 1979, p. 1336* Act 390, Acts of Alabama 1975, p. 972
Jefferson 10th (Bess.Div.)	X	X	\$2.00*	-0-	-0-	-0-	\$2.00	Act 79-751, Acts of Alabama 1979, p. 1336*
	X		<del>\$2.00**</del> \$1.00	0	0	0	\$3.00	Act 79-751, Acts of Alabama 1979, p. 1336* Act 390, Acts of Alabama 1975, p. 972
Crim.			<del>\$2.00**</del> \$-50	0	0	0	\$2.50	Act 79-751, Acts of Alabama 1979, p. 1336* Act 390, Acts of Alabama 1975, p. 972
Civ.			<del>\$2.00**</del> \$-10	0	0	0	\$2.10	Act 79-751, Acts of Alabama 1979, p. 1336* Act 390, Acts of Alabama 1975, p. 972

## Corrections to Page 1-9

Tuscaloosa 6th	X	X	\$2.00	0	0	\$2.00*	\$5.00	Act 79-751, Acts of Alabama 1979, p. 1336 Act 80-780, Acts of Alabama 1980, p. *
	X							
Crim.			\$2.00	-0-	\$1.00**	\$3.00*	\$6.00	Act 79-751, Acts of Alabama 1979, p. 1336 Act 1286, Acts of Alabama 1971, p. 2208** Act 80-780, Acts of Alabama 1980, p. *
	X							
Crim.			\$2.00	-0-	\$5.00	\$3.00	\$10.00	Act 79-751, Acts of Alabama 1979, p. 1336 Act 1286, Acts of Alabama 1971, p. 2208** Act 80-780, Acts of Alabama 1980, p. *

## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

Sheriffs - Constables

In an opinion dated August 26, 1981, the attorney general issued the following opinion which concludes that a sheriff has authority to summon constables to attend circuit court. The opinion reads as follows:

"This letter is in response to your June 29, 1981 request for an opinion which reads as follows:

"Under what circumstances and conditions and to perform what duties may a sheriff summons constables to attend the circuit court?"

"As sheriff you would have the authority to summon constables to attend circuit court. Neither statutory nor common law, however, specifies under what circumstances or for what reason you may summon constables to attend circuit court. It is the opinion of this office that you could summon constables to attend circuit court to perform only those duties required of them by statute. The Code of Alabama 1975, Section 36-23-6 sets forth the duties of a constable."

Issuance of Executions

In an opinion dated August 20, 1981, the attorney general in construing the apparent conflict between Section 6-9-21 and Section 12-19-75, Code of Alabama 1975, determined that the clerk has no authority to institute an execution proceeding on his own volition since it must be initiated by the successful party. The opinion further concluded that unless and until the \$5 fee provided in

Section 12-19-73 is paid, the clerk is not obliged to cause the execution to issue within 90 days of the judgment entry, or any other period of time.

Issuance of Attachment--A Judicial Act

In an opinion dated August 25, 1981, the attorney general determined that the provisions of Section 6-6-30 et seq., Code of Alabama 1975 are not facially unconstitutional since it cannot be ascertained from the face of the statute whether or not the issuing officer is vested with any discretion citing Blackburn's Inc., et al v. Bailey Manufacturing Co., et al., CV 81-P-0253-5 (U.S. District Court, Northern District of Alabama, May 28, 1981).

The opinion further stated that a clerk's act of issuing an attachment has been held to be a judicial act, and as such, it necessarily involves discretion as to whether or not it shall issue.

With respect to sheriff's levying or serving an attachment, he is cloaked with immunity when carrying out the orders of a court, once he is satisfied that the writ of attachment has been issued by the officer empowered to do so.

Interpretation of Acts No. 81-543 And  
81-860 Concerning Political Contributions  
By Corporations

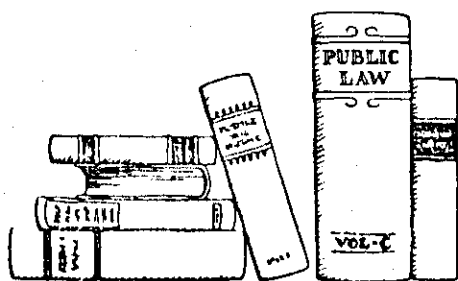
On August 26, 1981, the attorney general released an opinion interpreting Acts No. 81-543 and 81-860 regarding political activities. The eight questions addressed and answered therein are quoted as follows:

"Act 81-860 allows corporate contributions in any amount not to exceed \$500 to any one candidate or political committee. Does the term 'political committee' include separate segregated funds organized under Section 10-1-2 and political action committees such as those which make political contributions to a multiplicity of candidates and issues?"

"It is my opinion that the term 'political committee' includes political action committees if such committees perform the functions described in Section 17-22-1(3). That section defines 'political committees' as follows:

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## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

(Continued from Page 12)

"Any one or more persons who shall be elected, appointed, chosen or associated for the purpose wholly or in part of directing the raising, collection or disbursement, and every two or more persons who shall cooperate in the raising, collecting or distribution, or in controlling or directing the raising, collecting or disbursement of money used or to be used to further or defeat the nomination or election of any person, or any class or number of persons to public office by popular vote, or in support of or in opposition to any measure or proposition submitted to popular vote."

"Thus, if the political action committee is associated for the purpose wholly or in part of the raising, collecting, or disbursement of money used to further or defeat the nomination or election of any person, or in support of or opposition to a measure submitted to the popular vote, then that political action committee would be a 'political committee' within the meaning of Section 17-22-1(3).

"2. May a candidate, political party, or political committee receive contributions from more than one corporation?"

"There is nothing in Acts No. 81-543 or 81-860, which prevents a candidate, political party, or political committee from receiving contributions from more than one corporation. Therefore, it is my opinion that a candidate, political party, or political committee may receive contributions from any number of corporations.

"3. If a political committee receives contributions from more than one corporate contributor (i.e., \$500 from corporation A, \$500 from corporation B, \$500 from corporation C), is there any limitation on the amount of or recipient of any political contribution that the political committee may make?"

"It is my opinion that a political committee may contribute any amount that it chooses to any political candidate. There are no provisions in Acts 81-543 or 81-860, or elsewhere in the Alabama election laws, which place a limitation on the amount of any political contribution that a political committee may make.

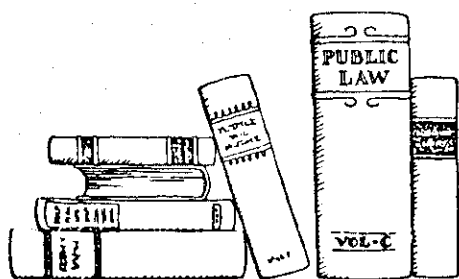
"4. Is the \$500 limitation contained in Act 81-543 and Act 81-860 an aggregate sum to be applied in each election or is it simply a limitation on the amount that can be contributed to each candidate, political party and political committee? In other words, can a corporation only contribute a total of \$500 in each election or may a corporation contribute up to \$500 to candidate A, \$500 to candidate B, \$500 to political committee C, etc., in each election?"

"It is my opinion that a corporation is not limited in the number of candidates or political parties or committees to which it contributes. Act 81-860 states that a corporation may contribute 'any money or other valuable thing in any amount not to exceed \$500 to any one candidate or political party or political committee.' I interpret this phrase to mean that a corporation is limited to a contribution of \$500 to any single candidate, party, or committee, but is not limited in the number of \$500 contributions that it may make. Therefore, in any given election, a corporation may contribute \$500 each to candidates A, B, and C and may also contribute \$500 each to political committees X, Y, and Z.

"5. If a corporation wants to contribute the maximum of \$500 to a political committee which is organized to make political contributions to a multiplicity of elections, such as state and local primary, runoff and general elections, how many \$500 contributions can the corporation make to such committee in a calendar year?"

(Continued on Page 14)

## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

(Continued from Page 13)

"This question has been answered in part in a prior opinion to you issued on June 22, 1981 which states that a \$500 contribution may be made for each election; meaning each primary, each runoff and each general election. It is my opinion that Acts 81-543 and 81-860 do not speak in terms of yearly contributions, but rather in terms of contributions to elections. Therefore, a \$500 contribution may be made to any one candidate, political party or political committee in each separate election, where state or local, occurring in any given year.

"'6. In Section 2, Subparagraph (8), of Act 81-860, it is declared to be a corrupt practice for a person or political committee to solicit or receive corporate contributions. Section 3 of the Act expressly allows the making of corporate contributions up to \$500 but is silent on the solicitation of these contributions. Are candidates and political committees restricted to receiving only 'unsolicited' corporate contributions or may candidates and political committees both 'solicit' and 'receive' such corporate contributions?"

"Prior to the adoption of Acts 81-543 and 81-860, the Corrupt Practices Act prohibited candidates or political committees from soliciting and receiving corporate contributions. However, the above acts reversed this limitation by allowing corporations to contribute to candidates and committees, up to \$500.

"It is my opinion that Acts 81-543 and 81-860, by allowing corporations to con-

tribute to candidates and committees, implicitly repeals those provisions of the Corrupt Practices Act which heretofore prohibited a committee or candidate from receiving or soliciting funds. Clearly, the acts permitting contributions would have no meaning if candidates and committees could not solicit or receive those contributions.

"This conclusion is consistent with the First Amendment right of candidates to express and explain their opinions on campaign issues. It is also consistent with the right of the public to be informed on these issues.

"'7. Under Acts No. 81-543 and No. 81-860 and other existing legislation, may political contributions be made to candidates who are incumbents and, if so, at what point in time?"

"This question has recently been addressed by the Alabama Supreme Court in an advisory opinion issued August 13, 1981 to the speaker and members of the Alabama House of Representatives. In that opinion, the Supreme Court held that a bill which would deny elected public officials the right to receive contributions that are afforded to other candidates for office is discriminatory on its face and in violation of the Fourteenth Amendment of the Constitution of the United States. Following the Supreme Court's ruling it is my opinion that political contributions under Acts 81-543 and 81-860 may be made to incumbent candidates in the same manner as they may be made to other candidates.

"'8. Under Acts 81-543 and 81-860 and other existing legislation, may contributions be made to candidates, political parties and political committees after an election?"

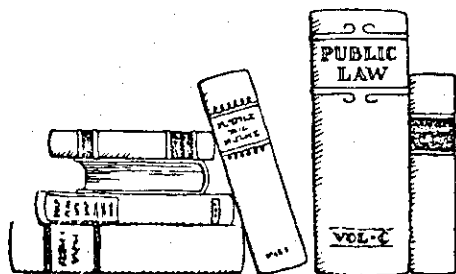
"To my knowledge, there is nothing in Acts 81-543 and 81-860 or elsewhere in Alabama law that places a restriction on the time during which a contribution may be made to an election."

### Probate Judges--Adoption

In an opinion released August 28, 1981, the attorney general held that a petition for adoption filed pursuant to Section 26-10-1, Code of Alabama 1975, need not be notarized or contain the attestation of two witnesses in cases where permanent custody of the child has been awarded to the Department.

(Continued on Page 15)

## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

(Continued from Page 14)

ment of Pensions and Security. Although the term "verified" as used in the statute might seem to require otherwise, according to the attorney general's interpretation, this word means verification by way of the department's investigation and report and should not be read as requiring either notarization or attestation.

Disposition of Charges Collected by the Sheriff's Office for Offenses or Theft Reports

In an opinion dated August 14, 1981, the attorney general opined that Section 36-22-17, Code of Alabama 1975, requires that any charges collected by the sheriff's office for offenses or theft reports must be paid into the general fund of the county.

Municipal Courts--Municipal Prisoners Committed to County Jails

In an opinion dated August 14, 1981, the attorney general addressed several questions which concerned the commitment of municipal prisoners to county jails. In answer to the inquiries submitted, the attorney general held that:

1. A municipal judge has no authority (under Section 11-47-8 or elsewhere in the Code) to routinely commit municipal prisoners to county jail.

2. Unless a contract exists between the county and municipality, the county sheriff is under no legal obligation to accept municipal prisoners on a mittimus signed by a municipal judge.

3. In the event a circuit judge directs removal of a municipal prisoner pursuant to Section 11-47-8 Code of Alabama 1975, to the "nearest sufficient jail in any other municipality or county," the municipality requesting removal must bear the cost of removal and maintenance.

4. Prisoners convicted in municipal courts for violating municipal ordinances are considered municipal prisoners, regardless of whether the court orders the sentences served.

5. Although an act may constitute both a violation of state law and a breach of a municipal ordinance, if the defendant is prosecuted in municipal court, his conviction is treated as a violation of the municipal ordinance.

The latter holding was based on a prior opinion rendered by the attorney general on May 9, 1980 concerning the jurisdiction of municipal courts. In that opinion it was established that municipal courts have jurisdiction over violations of municipal ordinances, even though the violation may constitute a state offense, when those ordinances have adopted Class A or B state misdemeanors as offenses against the municipality. However, in no event should the city bring a misdemeanor charge in municipal court as the violation of a state statute or where the violation (although a municipal offense) could also involve a felony offense.

The attorney general went on to state that a municipal magistrate may only issue arrest warrants for violations of municipal ordinances.

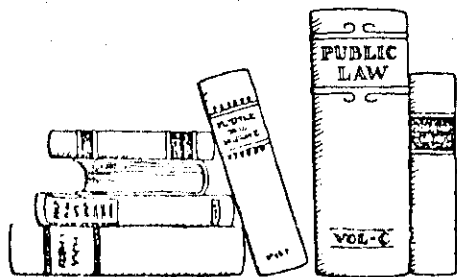
Sheriffs - Counties - Overtime

The attorney general was recently asked to resolve a conflict between Act No. 868, Acts of Alabama 1981, and local government agreements which stipulate that deputy sheriffs will work additional hours without receiving overtime pay.

In an opinion dated August 14, 1981, the attorney general held that Act No. 868 entitles a deputy sheriff to receive overtime

(Continued on Page 16)

## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

*(Continued from Page 15)*

pay or compensatory leave if he is assigned to duty for more than 8 hours a day or 40 hours a week, and this act supercedes any local laws or agreements that provide otherwise.

Effect of Act 80-616; 7½ Percent Cost-of-Living Raise and 2½ Percent Maximum Annual Step Increase

The attorney general, in an opinion released on September 11, 1981, has opined that the provision of Act 80-616 (the 7½ percent cost-of-living raise for fiscal year 1980-81) placing a cap of 2½ percent on annual step increases will expire on September 30, 1981. Thus, at this time, there is no corresponding cap on future step increases. This does not mean, however, that each employee who was granted a step increase during the fiscal year will automatically return on October 1, 1981, to the proper step called for under the previous pay plan. The attorney general stated that Section 3 of the Act required the state personnel department to revise the schedule of pay rates to reflect the increases granted in fiscal year 1980-81 under the Act. Thus, the present salary levels and pay ranges which came into existence on October 1, 1980 (the supplemental pay plan), will remain in

effect on October 1, 1981. However, with the elimination of the 2½ percent cap, annual merit raises will correspond to percentage step increments normally granted in past fiscal years.

The Administrative Office of Courts is distributing a memorandum explaining the implications of this opinion for judicial system employees. A copy of this memo is being sent to all circuit and district judges, all circuit and district clerks, all registers, court administrators and jury commission clerks.

Circuit Clerk's Office May Not Close On Wednesday Afternoon Pursuant To Resolution of County Commission

In an opinion released on September 2, to R. L. Foster, circuit clerk of Bibb County, the attorney general ruled that the circuit clerks' offices are governed by Rule 5, Alabama Rules of Judicial Administration, regarding business hours. The attorney general opined that a resolution of the county commission providing for the closing of the courthouse on Wednesday afternoons could not operate to control the hours of the circuit clerk's office. The opinion stated, pursuant to Rule 5, supra, that the circuit clerk's office must be open: (1) at any and all times when the court is in session; (2) during normal business hours for state offices, which are from 8 a.m. until 5 p.m. Monday through Friday; and (3) on Saturdays and particular legal holidays when provided by local rule of the circuit or district court.

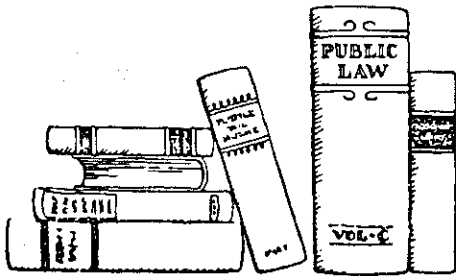
Relationship Between Presiding Circuit Judge and Circuit Clerk

The attorney general, in an opinion dated August 26, 1981, discussed the relationship between the presiding circuit judge and the circuit clerk. That opinion is reprinted here for your benefit:

"Reference is made to your request for an opinion from the attorney general regarding the authority and duties of a clerk of the circuit court in this state and the role of the circuit judge in supervising these duties.

*(Continued on Page 17)*

## LEGAL NOTES



## ATTORNEY GENERAL OPINIONS

(Continued from Page 16)

"The authority and duties of a circuit clerk are delineated by Code of Alabama 1975, Section 12-17-93 and Section 12-17-94 and are further defined by Rule 4 of the Alabama Rules of Judicial Administration. Among those duties are (1) the signing and issuing of all summonses, subpoenas, writs and other processes, under the authority of the court; (2) the attendance of court by the clerk or his representative; (3) upon obtaining the advice of the presiding circuit judge, the clerk shall designate approved state depositories to serve as depositories for all court costs, fines and forfeitures and other public monies coming within their control, and (4) to perform other duties as required by law, rule, court order or directive of the administrative director of courts.

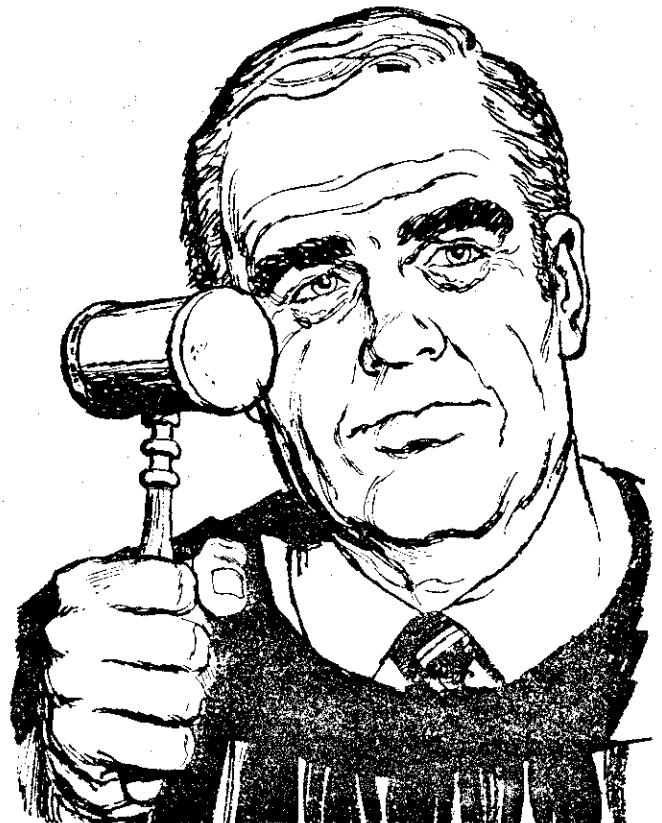
"In Stegmaier v. Trammell, 597 F.2d 1027, the United States Court of Appeals for the Fifth Circuit stated that the circuit clerks in this state serve in a ministerial role and they do not hold a policy-making position. The Court of Appeals determined that the constitutional and statutory provisions regarding the unified judicial system in this state clearly reflect that policy-making decisions with regard to the circuit clerk's office are made by the administrative director of the courts.

"Regarding the supervision of the office of circuit clerk by the presiding judge of each circuit, Code of Alabama 1975, Section 12-17-24 provides:

"The presiding circuit judge shall exercise a general supervision of the judges, clerks, registers, court reporters, bailiffs, sheriffs and other court employees of the circuit and district courts within the circuit, except employees of the clerk, and see that they attend strictly to the prompt, diligent discharge of their duties.' (Emphasis added)

"The Supreme Court of Alabama ruled in Resolute Insurance Company v. Ervin, 285 Ala. 575, 234 So.2d 867 that the supervision given the presiding judge over the officials enumerated in Section 12-17-24 is limited to seeing that such officials promptly and diligently discharge their duties. Section 12-17-24 does not authorize the presiding judge to exercise the duties placed upon these officials by law as determined by the state Supreme Court in In re Ingram, 356 So.2d 618 (Ala. 1978).

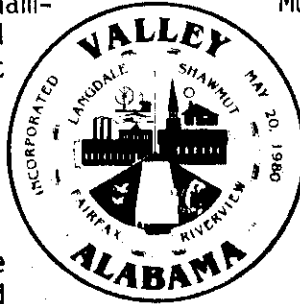
"From a review of the laws and court rules regarding the functions of the office of the circuit clerk and the role of the presiding circuit judge in supervising these functions, it is very evident that the circuit clerk and the circuit judges should work together to see that the courts of their circuit run smoothly and efficiently and these officials should cooperate with one another in such a way to best serve the public."



## FOUR SMALL TOWNSHIPS INCORPORATE TO MAKE NEW CITY OF VALLEY, ALABAMA

It was May 20, 1980 when Valley, Alabama came into being as an incorporated city. The southeastern area of Chambers County surrounding Lanett had long been called "The Valley," but each of the four small townships maintained its own identity and had its own name.

Shortly after the townships of Langdale, Shawmut, Fairfax and Riverview were incorporated as the city of Valley, Mayor John H. Hood and council members Allen Hendrix, Bill Hayes, Jim Laney, Dorothy W. Morris and Richard Perryman took office on July 31, 1980. City Clerk-Treasurer Lydia Snyder was appointed July 31 and Police Chief



Arthur E. Carmack Jr. was appointed Sept. 29.

Much of the efforts of 1981 have been directed toward establishing the police department and a municipal court.

On Feb. 23, 1981, the Valley City Council adopted an ordinance establishing the City of Valley Municipal Court and at the same time, appointed Billie Anne Tucker as municipal judge.

Renee Adams was appointed court clerk and Ms. Snyder and James Pieratt were appointed magistrates.

Valley Police Department hit the streets on April 1, 1981 and by the first municipal court session on May 22, 1981, 135 cases were docketed.

This past summer, the municipal court and its records were moved from the police department to city hall. Ms. Snyder was appointed court clerk and Diane Clifton was employed to assist Ms. Snyder and to serve as an additional magistrate.

With its municipal court, police department, city council and city hall in full swing serving the area's 8,800 residents, the city of Valley, Alabama seems well on the way toward putting itself on the map.

## 7TH CIRCUIT ADDED TO JUMI PROGRAM; 19 COURTHOUSES GET CALL-IN SYSTEMS

The 7th Judicial Circuit (Calhoun County) is the latest court to be added to the Juror Utilization/Management Incentive Program. Observation of current jury practices will begin with the fall court terms.

The telephone call-in systems for juror notification has been installed in an additional 19 courthouses around the state. The 19 locations include Autauga, Baldwin, Blount, Bibb, St. Clair, Butler, Chambers, Clarke, Clay, Coosa, Dale, Escambia, Franklin, Geneva, Marengo, Marion, Macon, Shelby and Tallapoosa Counties.

In addition to jurors, witnesses are also often affected by last minute changes in trial schedules. The court officials of the 15th, 20th and 23rd Judicial Circuits have addressed this problem by installing a separate call-in system for witnesses. The 26th Judicial Circuit will also soon begin using a similar witness notification system. Law enforcement officers particularly appreciate this system which decreases the time officers called as witnesses must spend at the courthouse.

Inquiries concerning the call-in systems should be addressed to Randy Helms of the Administrative Office of Courts. Chris Williams, who previously coordinated the project, has recently accepted a position with Huntingdon College.

## SUPREME COURT TO HEAR TWO MATTERS IN NOVEMBER SESSION IN DECATUR

The Alabama Supreme Court will hear two matters when it convenes in a special session at Austin High School in Decatur Nov. 6.

For the past several years, the Supreme Court has held sessions once or twice each year at high school and college auditoriums across the state in order to allow citizens of the state an opportunity to observe the court in action.

The November session will begin at 9:30 with the case of Repsie Rhea Boone v Dr. M.M. Mullendore followed by a petition for writ of certiorari to the Court of Criminal Appeals in the case of David Self, alias v State of Alabama.

The court will break at 10:30 a.m. to allow students to leave and enter and the session will adjourn at 11:30 a.m.

## TRAINING SESSION HELD FOR COURT CLERKS, MAGISTRATES IN PERRY

Warrant Issuance was the subject of a training session which was held for municipal and district court clerks and magistrates in Perry County recently. The training session was conducted by Angelo Trimble, director of the Municipal Court Division of the Administrative Office of Courts, at the request of Circuit Clerk Mary Auburtin.

The session provided information on constitutional requirements and constitutional authority of magistrates; requirements for a complaint and warrant; and other areas in which the participants expressed interest in additional information.

Assisting in the session was Paul Messner of the 4th Circuit District Attorney's Office, Jack Dixon, Jean Holcomb and Tom Payne of the AOC. Attending the session were employees of the Perry County Circuit Clerk's Office, representatives of the sheriff's department and personnel of the court clerk's offices and police departments of Uniontown and Marion. The meeting was held in the courtroom of the Perry County Courthouse.

## DUI INSTRUCTORS ATTEND ANNUAL

### TRAINING SESSION IN SELMA

DUI Instructors from throughout Alabama attended an annual training session at the Criminal Justice Training Center in Selma Aug. 20-21. The purpose of this annual meeting is to continue the professional training of certified instructors and to provide a forum for DUI Program directors to exchange ideas.

Dr. Phillip Bromley, director of the U.S. Navy Alcohol Safety Action Program, was the principle speaker. His presentation on Communication Skills was the highlight of the session.

Directors of three DUI agencies reported on the six-month field test of procedures for referring DUI defendants to treatment. Dr. Don Brown of Sylacauga and John Cummins of Alexander City spoke on the Mortimer/Filkins Drunk Driver questionnaire as a tool for identifying problem drinkers. Ron Stephens of Fairfax

addressed the idea of the BAC being used as a sole means of identification. A general consensus of those attending concluded that some means of identifying problem drinkers should be used with the results being reported to the courts.

A similar training session is being planned for August of 1982 and questionnaires are being circulated during the next year to assist in planning the session.

## PUBLIC SAFETY STATISTICS REFLECT

### IMPACT OF NEW RULES OF ROAD ACT

The Alabama Legislature passed a revised Rules of the Road Act in 1980 bringing Alabama vehicle operation laws up to federal standards. One provision of that act changed laws dealing with driving under the influence of alcohol (DUI). The new law permits judges full option on licensing sanctions for first offenders and makes reducing DUI charges unlawful.

A statistical analysis of records compiled by the Department of Public Safety from traffic tickets adjudicated in all courts during 1980 and thus far in 1981 indicate the effectiveness of the changes in the law.

	<u>1980</u>	<u>1981</u>
% DUI Convictions vs. Arrests	47%	87%
% DUI Cases Reduced	42%	3%
% DUI Cases Acquitted	27%	2%
% DUI Cases Not Prossed	9%	8%

## COURT CLERK TESTING DATES SET

Written tests for court clerks will be administered: Oct. 17, Florence and Gadsden; Oct. 24, Tuscaloosa, Alex City and Montgomery; Oct. 31, Huntsville, Birmingham, Dothan and Mobile; Nov. 14, Florence, Gadsden and Alex City; Nov. 21, Huntsville, Birmingham, Montgomery, Dothan and Mobile; Dec. 5, Tuscaloosa; Dec. 12, Florence and Gadsden; Dec. 19, Birmingham, Alex City, Montgomery and Mobile.

Applicants for court clerk positions should be advised of the testing date at a location convenient to the court at which the application is made.

## STATE MAILROOM ANNOUNCES ZIP PLUS FOUR CODE FOR STATE MAIL ADDRESSES

The state mailroom has received official notification of the Zip Plus Four Code for mailing addresses of the state of Alabama. The new zip code for the Administrative Office of Courts is:

36130-0101

The new zip code should be gradually phased into the normal operations. Envelopes, stationary and forms should not be revised until the current stock is depleted.

Any questions concerning use of the new zip code should be directed to Tom Law at the Administrative Office.

## ADVISORY GIVEN TO USERS OF SONY COURTROOM RECORDERS, MODEL BM-145

Representatives of Dictation Equipment Company, distributors of Sony recording equipment, have advised that the batteries in the BM-145 models should be replaced at least once each year so as to prevent possible damage and thus save unnecessary repair costs.

## JUVENILES COMMIT 23 PERCENT OF VIOLENT CRIMES AGAINST PERSONS

Juveniles (persons under 18 years old) committed 23 percent of the violent crimes against persons in the U.S. between 1973 and 1977, according to a study by the Office of Juvenile Justice and Delinquency Prevention.

The study found that juveniles committed 8.2 percent of the rapes, 24.2 percent of the robberies, 17.8 percent of the aggravated assaults, and 30.4 percent of the personal larcenies (purse snatchings and pocket pickings) during those years.

However, noted Charles A. Lauer, the office's acting administrator, "juvenile crime is less serious in terms of weapons use, thefts, financial losses and injuries than is adult crime."

Moreover, he said, "during the five-year period, rates remained relatively stable."

The study also revealed that juveniles

had higher offense rates for personal crimes than did adults. They were also more likely to commit crimes in groups or gangs of three or more offenders. The seriousness and types of injuries in crimes committed by juveniles, youthful offenders (age 18 to 20) and adults were similar.

Mr. Lauer said there was virtually no relationship between general economic conditions (as measured by unemployment statistics, the consumer price index and the gross national product) and crime, either juvenile or adult.

However, he added, crime rates for juveniles, youthful offenders and adults were higher in urban neighborhoods with high unemployment rates than they were elsewhere.

Some of the other findings of the study were:

- \*Use of weapons increased with age. Guns were rarely used by juveniles, and that rate did not increase during the 1973-1977 period.

- \*The elderly were more than twice as likely to be victimized by adults as by juveniles. Moreover, offenses committed against the elderly were less serious when juvenile offenders were involved.

- \*In poor neighborhoods, juveniles and youths, but not adults, were more likely to use weapons than were their counterparts in wealthier neighborhoods.

- \*Juvenile involvement in robberies of businesses was substantially less than was juvenile participation in robberies of people.

- \*The highest crime rates were among offenders between 18 and 20 years old.

- \*Males committed offenses about four to 15 times the rate females did, depending on the type of crime.

The study is being published in five monographs prepared by the Criminal Justice Research Center and available through the U.S. Government Printing Office or the National Criminal Justice Reference Service.

"Because the data clearly demonstrates that juveniles are responsible for a significant amount of violent crime," Lauer commented, "developing more effective prevention techniques and rehabilitating young offenders is essential for our society's safety." *JUSTICE ASSISTANCE NEWS*

# FROM THE STATE PRESS

## EDITORIAL:

The following editorial was aired Aug. 28, 1981 on WSFA-TV in Montgomery, a television station with one of the largest viewing audiences in Alabama. The chief justice has received several letters in response to the editorial. We publish it here in order for court officials to see what is being said about the handling of DUI cases.

"Get The Drunks Off The Road.

"What we have to say tonight is intended primarily for judges...municipal judges, district judges, circuit judges. It's also intended for the prosecuting attorneys in those same courts. We want to talk about defendants brought before you who are charged with driving while under the influence of alcohol...DUI, you call it...we call it drunk driving.

"We've come to the conclusion that we of the press have not done the job we ought to be doing in reporting on fatal traffic accidents which involve drunk drivers. We report the name of the victim or victims, we report the name of the drunk driver. But maybe we should go further. Maybe we should find out if the drunk driver had ever been arrested before for driving while intoxicated? What was the disposition of the case? Was he in fact allowed to plead guilty to some lesser charge such as reckless driving or speeding, thus allowing him to continue to drive? And if that be so, what was the name of the judge and prosecutor who agreed to do this...what was the name of the judge and prosecutor who for whatever reason agreed to a lesser charge and allowed the drunk to keep right on driving? Isn't the public entitled to know this? We think so.

"Inevitably, when there is some tragedy on the highways involving a drunk driver...such as the heartbreaking death of two Prattville teenagers a couple of weeks ago...there is an instant demand from the public for law enforcement officers to crack down on drunk drivers. But it matters not how many drunk drivers are arrested by city police, county sheriffs, and state troopers if the judges don't see to it that the guilty are punished. The problem is not in law enforcement, it is in the courts.

"And what can you do about it? More than you might think. Go to the top. Drop a note to the Chief Justice...just address it Chief Justice, State Capitol, Montgomery; he'll get it. Tell him you are sick and tired of judges turning drunks loose to kill innocent people. Tell him there is a Judicial Inquiry Commission that ought to look at the record of how some judges handle drunk drivers. If enough of you do it, you not only will get his attention, but you just might save some lives. Maybe your own."

WSFA-TV, 1210 EAST DELANO AVENUE,  
MONTGOMERY, ALABAMA 36192

## Public scorn

In the last century, the droll Mr. Dooley noted in one of his perceptive political commentaries that despite our best efforts to insulate the federal bench from public opinion, "the supreme court reads the election returns, too."

Alabama judges are elected, but the need to protect judges from public ire is so clear that we insulate ours by tradition and subterfuge: they normally run only with prior approval from the bar association, and once in office, find no serious opposition from then on.

The system depends upon the practical dishonesty that judges should be responsible to the public for their decisions. By custom, we quite properly make them responsible to the law instead, especially at the appellate level.

That's why Bill Baxley was attacked so strongly when as attorney general he used his great personal magnetism and campaign skill to unseat an appeals judge with whom he disagreed and substitute one of his assistants. He had every right under the state constitution to do that,

but it threatened every judge's efforts to remain objective.

In the same way, Mayor Emory Folmar had every right under the state constitution to hold up to public scorn the state supreme court judges who voted for a decision with which he disagreed this week. But that, too, undermines the one thing a judge must have to function: his independence from fickle popular desire.

Whether the court was right or wrong is beside the point. Not only does this all-too-human group sometimes hand down decisions most people consider ludicrous, they sometimes even do it unanimously. They are, however, the only state supreme court we have.

Once we've found the best people we can, they need the freedom at least to try with whatever native competence they possess to follow the law rather than the temporary blazing demands of bloodthirsty public opinion.

That's the core requirement of a government of law, not men, and it's your ONLY long-term guarantee of freedom.

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